



Figure 1. Specific geographic area covered by the Beaufort Sea incidental take regulations.

§ 18.123 When is this subpart effective?

Regulations in this subpart are effective from November 28, 2003, through March 28, 2005, for year-round oil and gas exploration, development, and production activities.

§ 18.124 How do I obtain a Letter of Authorization?

(a) You must be a U.S. citizen as defined in § 18.27(c) of this part.

(b) If you are conducting an oil and gas exploration, development, or production activity that may cause the taking of polar bear or Pacific walrus in the specified geographic region described in § 18.122 and you want incidental take authorization under this rule, you must apply for a Letter of Authorization for each exploration ac-

tivity or a Letter of Authorization for activities in each development and production area. You must submit the application for authorization to our Alaska Regional Director (*see* 50 CFR 2.2 for address) at least 90 days prior to the start of the activity.

(c) Your application for a Letter of Authorization must include the following information:

(1) A description of the activity, the dates and duration of the activity, the specific location, and the estimated area affected by that activity.

(2) A site-specific plan to monitor the effects of the activity on the behavior of polar bear and Pacific walrus that may be present during the ongoing activity. Your monitoring program must document the effects on these marine mammals and estimate the actual level

and type of take. The monitoring requirements will vary depending on the activity, the location, and the time of year.

(3) A site-specific polar bear awareness and interaction plan.

(4) A Plan of Cooperation to mitigate potential conflicts between the proposed activity and subsistence hunting. This Plan of Cooperation must identify measures to minimize adverse effects on the availability of polar bear and Pacific walrus for subsistence uses if the activity takes place in or near a traditional subsistence hunting area.

§ 18.125 What criteria does the Service use to evaluate Letter of Authorization requests?

(a) We will evaluate each request for a Letter of Authorization based on the specific activity and the specific geographic location. We will determine whether the level of activity identified in the request exceeds that considered by us in making a finding of negligible impact on the species and a finding of no unmitigable adverse impact on the availability of the species for take for subsistence uses. If the level of activity is greater, we will reevaluate our findings to determine if those findings continue to be appropriate based on the greater level of activity that you have requested. Depending on the results of the evaluation, we may grant the authorization as is, add further conditions, or deny the authorization.

(b) In accordance with § 18.27(f)(5) of this part, we will make decisions concerning withdrawals of Letters of Authorization, either on an individual or class basis, only after notice and opportunity for public comment.

(c) The requirement for notice and public comment in paragraph (b) of this section will not apply should we determine that an emergency exists that poses a significant risk to the well-being of the species or stock of polar bear or Pacific walrus.

§ 18.126 What does a Letter of Authorization allow?

(a) Your Letter of Authorization may allow the incidental, but not intentional, take of polar bear and Pacific walrus when you are carrying out one or more of the following activities:

(1) Conducting geological and geophysical surveys and associated activities;

(2) Drilling exploratory wells and associated activities;

(3) Developing oil fields and associated activities;

(4) Drilling production wells and performing production support operations;

(5) Conducting environmental monitoring programs associated with exploration, development, and production activities to determine specific impacts of each activity.

(b) You must use methods and conduct activities identified in your Letter of Authorization in a manner that minimizes to the greatest extent practicable adverse impacts on polar bear and Pacific walrus, their habitat, and on the availability of these marine mammals for subsistence uses.

(c) Each Letter of Authorization will identify conditions or methods that are specific to the activity and location.

§ 18.127 What activities are prohibited?

(a) Intentional take of polar bear or Pacific walrus.

(b) Any take that fails to comply with the terms and conditions of these specific regulations or of your Letter of Authorization.

§ 18.128 What are the mitigation, monitoring and reporting requirements?

(a) We require holders of Letters of Authorization to cooperate with us and other designated Federal, State, and local agencies to monitor the impacts of oil and gas exploration, development, and production activities on polar bear and Pacific walrus.

(b) Holders of Letters of Authorization must designate a qualified individual or individuals to observe, record, and report on the effects of their activities on polar bear and Pacific walrus.

(c) Holders of Letters of Authorization are required to have a polar bear interaction plan on file with the Service, and polar bear awareness training will also be required of certain personnel.

(d) Under a Plan of Cooperation Industry must contact affected subsistence communities to discuss potential